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March 18, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **CC Docket No. 99-24; Bell Atlantic Telephone
Companies' Petition for Forbearance**

Dear Ms. Salas:

Enclosed for filing in CC Docket 99-24 you will find an original and 9 copies of the "Comments of CBS Corporation, National Broadcasting Company, Inc., Turner Broadcasting System, Inc., and The Walt Disney Company" in the above-referenced proceeding. Please date stamp the "stamp and return" copy of the comments for return by the messenger.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Randolph J. May
Randolph J. May

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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

| | | |
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| In the Matter of |) | |
| |) | |
| Petition of Bell Atlantic Companies for |) | CC Docket No. 99-24 |
| Forbearance from Regulation as a |) | |
| Dominant Carrier in Delaware; Maryland; |) | |
| Massachusetts; New Hampshire; New Jersey; |) | |
| New York; Pennsylvania; Rhode Island; |) | |
| Washington, D.C.; Vermont; and Virginia |) | |

**COMMENTS OF CBS CORPORATION,
NATIONAL BROADCASTING COMPANY, INC., TURNER
BROADCASTING SYSTEM, INC., AND THE WALT DISNEY COMPANY**

CBS Corporation, National Broadcasting Company, Inc., Turner Broadcasting System, Inc., and The Walt Disney Company, on behalf of its subsidiary, ABC, Inc., (collectively the "Networks"), by their attorneys, hereby submit these comments in response to Bell Atlantic Telephone Companies' ("Bell Atlantic") petition filed January 20, 1999, requesting the Commission to forbear from applying its Part 61 rate level rules and Part 69 rate structure rules to its special access services in twelve jurisdictions.¹ Bell Atlantic also asks the Commission to forbear from the tariff filing rules so as to permit it to file tariffs for special access services on one day's notice. By a Public Notice issued on January 21, 1999, the Commission seeks public comment on Bell Atlantic's petition.²

¹The jurisdictions are Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York (including the Greenwich, CT service area), Pennsylvania, Rhode Island, Washington, D.C., Vermont and Virginia.

²Public Notice DA 99-224, released January 21, 1999. Comments are due on March 8, 1999, with reply comments due on March 30, 1999.

I. BACKGROUND

The Networks are major users of full-time and occasional use video and associated audio channels in connection with the operation of their broadcast and cable networks. They use local video channels provided by Bell Atlantic and other local exchange carriers to carry news, sports, and entertainment programming between and among their broadcast operations centers, affiliate stations, satellite uplink operators, and other points of video origination and distribution. Sometimes the local channels which are used to originate or terminate video programming are ordered on the Networks' behalf by an interexchange provider which is providing the long haul service, and in other instances local channels are ordered by the Networks themselves. In either case, of course, the local channel is an integral part of the end-to-end transmission.

Although Bell Atlantic specifically does not request reclassification as a nondominant carrier, it acknowledges that, in effect, it nevertheless is requesting that the Commission forbear from "rate regulating" its special access services.³ It asserts generally that its customers "clearly have competitive alternatives to Bell Atlantic's service, and continued rate regulation is not 'necessary' to protect consumers."⁴ Bell Atlantic states that special access services are used primarily by two groups of customers -- interexchange carriers and business customers.⁵ According to Bell Atlantic, "[b]usiness customers use high capacity services to transmit large volumes of voice and data among multiple end user locations and between those

³Bell Atlantic Petition, at 1 and note 3.

⁴Bell Atlantic Petition, at 2.

⁵Bell Atlantic Petition, at 7.

locations and the points of presence of interexchange carriers.”⁶

II. DISCUSSION

The Networks’ interest in this proceeding arises because it is possible that Bell Atlantic’s petition may be construed, wrongly in the Networks’ view, to include forbearance from rate regulation of Bell Atlantic’s local video and associated audio channels simply because such channels are considered special access channels. To the extent this is the case, the Networks oppose Bell Atlantic’s proposal because absolutely no showing has been made -- or even attempted to be made -- that the local video channel market is effectively competitive at this time. Therefore, forbearance from rate regulation is not consistent with the public interest.

As shown above by the references to Bell Atlantic’s petition, its focus is on the voice and data services used by interexchange carriers and large business customers. There is no mention whatsoever in Bell Atlantic’s petition of video channels or broadcast customers, much less any reference to the competitiveness of the market for video channels.

While there are three or four scattered references to “video” in the couple hundred pages of appendices purporting to show the “profiles” of six competitive providers, it is clear from the appendices themselves that none of the Competitive Local Exchange Carriers (“CLEC”) focus on offering broadcast-quality video channels to broadcasters or cablecasters. Rather, as the Commission is aware, and even as a casual review of the materials demonstrate, the principal marketing effort of the identified CLECs is to serve the voice and data market. For instance, when e.spire says it provides “voice, data and video” over private fiber optic lines, it is referring to videoconferencing or “streaming video” or the like, but not broadcast-quality local channels.

⁶Bell Atlantic Petition, at 8.

With the exception of some video channels in the New York metro area, the Networks report that they have not acquired video channels from any of the identified CLECs (AT&T Teleport, MCI Worldcom, Hyperion, Intermedia, Level 3, and e.spire).

Whatever merit Bell Atlantic's petition may have with regard to the voice and data services to which it is directed, it is clear, in light of the lack of information provided, that Bell Atlantic has not met its burden of showing the local video channel marketplace is competitive. It is the Networks' position that, at present, the market is not sufficiently competitive to warrant elimination of rate regulation.

Indeed, the Networks continue to rely heavily on Bell Atlantic for full-time and occasional video channels. For example, the Networks report that even in the heavily-populated Washington, D.C. area, Bell Atlantic provides nearly all of their local video channels. One network estimated that Bell Atlantic provides approximately 98% of its local channel usage, while the others, although not reporting specific percentages, reported Bell Atlantic supplies the "bulk" of their usage.

Thus, apart from whatever action the Commission may consider taking with regard to voice and data special access services, the Commission should decline specifically to grant Bell Atlantic's requested relief with regard to local video channels.⁷ To the extent, however, that Bell Atlantic may be concerned about losing business to new competition -- which is the concern which it claims has motivated its filing -- the Networks would not object to grant on a modified basis of one aspect of the relief Bell Atlantic requests. Bell Atlantic asks that it be

⁷Obviously, in light of the lack of showing that local video channels are subject to effective competition, the Section 10 forbearance test has not been met. 47 U.S.C. § 160. Absent effective competition, enforcement of the Commission's current tariffing rules is "necessary for the protection of consumers," and forbearance of these regulations would not be "consistent with the public interest." 47 U.S.C. § 160(a)(2) and (a)(3).

allowed to file its special access tariffs on one day's notice, without cost support, as non-dominant carriers may do. The Networks would not object to granting streamlined tariff treatment for proposed rate decreases. This requested streamlining would allow Bell Atlantic to respond quickly to perceived threats to competition by lowering rates, but would preserve the current (already considerably streamlined)⁸ tariff review process with regard to rate increases and service change proposals.

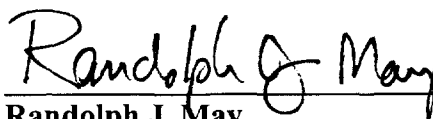
⁸Most of the tariffs filed by price cap LECs are subject to only 15 days notice under the streamlined process contained in Section 204(a)(3) of the Communications Act, as amended, 47 U.S.C. § 204(a)(3).

III. CONCLUSION

For the foregoing reasons, the Commission should not forbear from rate regulation of Bell Atlantic's provision of local channel video and associated audio services.

Respectfully submitted,

**CBS CORPORATION
NATIONAL BROADCASTING COMPANY, INC.
TURNER BROADCASTING SYSTEM, INC.
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March 18, 1999

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CERTIFICATE OF SERVICE

I, Elyse N. Sanchez, do hereby certify that true and correct copies of the foregoing, "Comments of CBS Corporation, National Broadcasting Company, Inc., Turner Broadcasting System, Inc. and The Walt Disney Company" were served by hand or first-class U.S. mail, postage prepaid, this 18th day of March, 1999, on the following:

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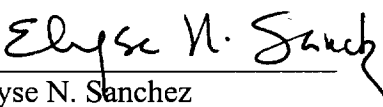
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